United States Courts
Southern District of Texas
FILED
April 27, 2017
David J. Bradley, Clerk of Court

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN L. KIRWIN,

BRIAN A. NEWKIRK

and

DEBI K. JORDAN,

Defendants.

No. **H 17-634M**

COUNTS ONE through EIGHTEEN:
(Wire Fraud)
[KIRWIN and NEWKIRK]
18 U.S.C. §§ 1343 & 1346
NMT 20 Years Imprisonment
NMT $250,000 Fine
NMT 3 Years Supervised Release

COUNTS NINETEEN through THIRTY-EIGHT:
(Mail Fraud)
[KIRWIN and JORDAN]
18 U.S.C. §§ 1341 & 1346
NMT 20 Years Imprisonment
NMT $250,000 Fine
NMT 3 Years Supervised Release

$100 Mandatory Special Assessment on Each Count
Class C Felony

FORFEITURE ALLEGATION:
18 U.S.C. §§ 981(a)(1), 982(a)(1)
21 U.S.C. § 853

INDICTMENT

THE GRAND JURY CHARGES THAT:

At all times relevant to this Indictment:

BACKGROUND

1. JOHN L. KIRWIN (KIRWIN) was employed by J.E. Dunn Construction Company as an internal recruiter from August 2013, through April 13, 2016.

2. J.E. Dunn Construction Company (J.E. Dunn) was a general building contractor with numerous locations, including Kansas City, Missouri. J.E. Dunn is one of the country's leading providers of construction management services, design-build, and integrated project delivery.

3. KIRWIN's duties as an internal recruiter at J.E. Dunn included finding qualified candidates for job vacancies. KIRWIN worked with outside employment recruitment agencies to locate and employ J.E. Dunn personnel for construction projects across the country. J.E. Dunn paid the outside employment recruitment agencies for locating suitable employees. Payment by J.E. Dunn to the outside recruitment agency was contingent upon the person being employed at J.E. Dunn.

4. J.E. Dunn's Code of Business Ethics and Conduct absolutely prohibited KIRWIN from accepting payment of cash from suppliers or others who do business, or have expressed an interest in doing business, with J.E. Dunn.

5. KIRWIN maintained personal bank accounts at Commerce Bank, Kansas City, Missouri, account number ending in X9435; and a personal bank account at the Armed Forces Bank, Parkville, Missouri, account number ending in X3885.

6. BRIAN A. NEWKIRK (NEWKIRK) was the owner and operator of a business named Search Group International (SGI), an employment-recruiting agency located in Houston, Texas. NEWKIRK maintained a bank account at Wells Fargo Bank, Houston, Texas, in the name of Brian A. Newkirk d.b.a. Search Group, account number ending in X7260.

7. DEBI K. JORDAN (JORDAN) was the owner and operator of a business named Recruitegist, located in Tulsa, Oklahoma. Recruitegist was an employment-recruiting agency.

8. JORDAN also operated a business called Sourcegist, another employment-recruiting agency, which was located in Claremore, Oklahoma.

COUNTS ONE through EIGHTEEN
(Wire Fraud)

9. From approximately March 2013, through April 6, 2016, in the Western District of Missouri, and elsewhere, JOHN KIRWIN, DEBI JORDAN, and BRYAN NEWKIRK, knowingly executed a scheme and artifice to defraud J.E. Dunn.

10. As part of the scheme and artifice to defraud, KIRWIN did the following:

a. KIRWIN employed the companies operated by JORDAN and NEWKIRK to locate suitable employees for J.E. Dunn construction projects;

b. Based upon invoices submitted by the companies operated by JORDAN and NEWKIRK, J.E. Dunn would send a check by U.S. Mail or Federal Express to the companies;

c. JORDAN and NEWKIRK, upon receiving the payments from J.E. Dunn, sent kickbacks to KIRWIN in the form of checks or wire transfers; and

d. On numerous occasions, the employee designated by the recruitment firms did not become an employee of J.E. Dunn. In those instances, the recruitment firms operated by JORDAN and NEWKIRK were not entitled to any payments.

11. From November 2013, through September 30, 2015, J.E. Dunn paid Recruitegist, which was operated by JORDAN, approximately $346,950 for recruitment services. Also, on or about December 4, 2015, J.E. Dunn paid $26,000 for recruitment services to Sourcegist, also operated by JORDAN.

12. From January 2014, through October 2015, JORDAN paid kickbacks to KIRWIN in the amount of $168,716.64.

13. From May 2014, through March 15, 2016, J.E. Dunn paid Search Group International, which was operated by NEWKIRK, $427,450 for recruitment services.

14. From June 2014, through March 2016, NEWKIRK paid kickbacks to KIRWIN in the amount of $245,285.

15. On or about the dates listed below, in the Western District of Missouri, and elsewhere, defendant JOHN KIRWIN and BRIAN NEWKIRK, with the intent to defraud and for the purpose of executing the afore-described scheme and artifice to defraud J.E. Dunn, caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below for each count, each transmission constituting a separate count:

Count	**Date**	**Wire Transfer**	**Recruit/ Employee**	**Invoice Amount**	**Kickback Amount**
1	06/04/2014	SGI account to Kirwin AFB account	PB	$17,750	$10,735
2	06/30/2014	SGI account to Kirwin AFB account	TM	$23,000	$13,000
3	8/27/2014	SGI account to Kirwin AFB account	LL	$21,500	$15,000
4	09/26/2014	SGI account to Kirwin AFB account	KH	$24,000	$18,000
5	10/07/2014	SGI account to Kirwin AFB account	MQ	$28,750	$14,375
6	11/14/2014	SGI account to K irwin AFB account	RS	$26,000	$17,500
7	12/18/2014	SGI account to Kirwin AFB account	CP	$16,000	$8,000
8	01/22/2015	SGI account to Kirwin AFB account	MG	$25,000	$18,000
9	02/17/2015	SGI account to Kirwin AFB account	BVV	$21,000	$14,000
10	03/19/2015	SGI account to Kirwin Commerce Bank account	TB	$24,000	$12,000
11	04/10/2015	SGI account to Kirwin Commerce Bank account	RA	$28,000	$14,000

Count	Date	Wire Transfer	Recruit/ Employee	Invoice Amount	Kickback Amount
12	05/06/2015	SGI account to Kirwin Commerce Bank account	EL	$20,500	$14,250
13	06/25/2015	SGI account to Kirwin Commerce Bank account	KE	$17,250	$8,600
14	08/11/2015	SGI account to Kirwin Commerce Bank account	RR	$13,500	$10,500
15	08/25/2015	SGI account to Kirwin Commerce Bank account	AM	$16,000	$8,000
16	11/17/2015	SGI account to Kirwin Commerce Bank account	AB	$28,500	$14,250
17	12/18/2015	SGI account to Kirwin Commerce Bank account	BF II	$23,200	$16,200
18	03/23/2016	SGI account to Kirwin Commerce Bank account	SK	$32,000	$8,000

All in violation of Title 18, United States Code, Sections 1343 & 1346.

COUNTS NINETEEN through THIRTY-SIX
(Mail Fraud)

16. Paragraphs 1 through 14 are re-alleged as if fully set forth in these Counts.

17. On or about the dates listed below, in the Western District of Missouri, and elsewhere, defendant JOHN KIRWIN and DEBI JORDAN, with the intent to defraud and for the purpose of executing the afore-described scheme and artifice to defraud J.E. Dunn, knowingly caused J.E. Dunn to place in an authorized depository for mail, to be sent and delivered by the Postal Service, the following matter: checks from J.E. Dunn to companies operated by DEBI JORDAN, each mailing constituting a separate count:

Count	**Invoice Number**	**Mailing Date**	**Check**	**Recruit/Employee**	**Invoice Amount**
19	JE-01-14	01/23/2014	1140649	K. L.	$12,750
20	JE-03-14	02/12/2014	1144087	O. S.	$12,500
21	JE-04-14	03/10/2014	1148804	P. T.	$16,800
22	JE-05-14	04/16/2014	1156353	C. H.	$15,750
23	JE-06-14	05/05/2014	1159888	S. H.	$12,750
24	JE-06-15	05/07/2014	1160397	A. V.	$19,000
25	JE-09-14	06/30/2014	1171287	J. Mc.	$18,000
26	JE-08-14	07/15/2014	1176380	J. H.	$12,000
27	JE-10-14	08/15/2014	1180853	C. C.	$17,000
28	JE-11-15	10/20/2014	1194150	C. P.	$15,000
29	JE-13-14	11/13/2014	1199439	S. H.	$15,000
30	JE-15-14	11/24/2014	1201582	M. H.	$24,000
31	JE-14-14	12/18/2014	1206585	B.G.	$18,400
32	JE-02-15	03/20/2015	1224430	K.L.	$13,000
33	JE-04-15	08/03/2015	1250175	P.D.	$34,000
34	JE-05-15	08/26/2015	1254318	D.H.	$16,000
35	JE-09-28	09/30/2015	1260367	N.M.	$21,000
36	JE-11-08	12/04/2015	1272772	A.S.	$26,000

COUNTS THIRTY-SEVEN through THIRTY-EIGHT
(Mail Fraud)

18. Paragraphs 1 through 14 are re-alleged as if fully set forth in these Counts.

19. On or about the dates listed below, in the Western District of Missouri, and elsewhere, defendant JOHN KIRWIN and DEBI JORDAN, with the intent to defraud and for the purpose of executing the afore-described scheme and artifice to defraud J.E. Dunn, knowingly caused to be sent and delivered by a private and commercial interstate carrier the following matter:

checks from J.E. Dunn to a company operated by DEBI JORDAN, each mailing constituting a separate count:

Count	**Invoice Number**	**FedEx Mailing Date**	**Check**	**Recruit/ Employee**	**Invoice Amount**
37	JE-11-14	10/01/2014	1190452	M.P.	$27,000
38	JE-04-15	03/02/2015	1220777	B.V.V.	$22,000

FORFEITURE ALLEGATION

20. The allegations of Counts One through Thirty-Eight of this Indictment are re-alleged and fully incorporated herein for the purpose of alleging forfeiture to the United States of America of certain property, real and personal, in which the defendant has an interest, pursuant to the provisions of Title 18, United States Code, Sections 981(a)(1)(C), 982(a)(1), and Title 28, United States Code, Section 2461, and the procedures outlined in Title 21, United States Code, Section 853.

21. Upon conviction of any violation of Title 18, United States Code, Sections 1341 and 1343, the defendant shall forfeit to the United States any property, real or personal, constituting, or derived from, proceeds the person obtained directly or indirectly pursuant to Title 18, United States Code, Section 981(a)(1).

22. The property subject to forfeiture includes, but is not limited to, the following:

a. Money Judgment and Other Property Involved In or Traceable to the Offenses:

Any interest or proceeds traceable thereto of at least $800,400, representing the proceeds obtained by defendants KIRWIN, NEWKIRK, AND JORDAN, in that such sum in aggregate is involved in, or is derived from, proceeds traceable to the offenses set forth in Counts One through Thirty-Eight.

SUBSTITUTE ASSETS

23. If the property described above as being subject to forfeiture as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with a third person;

c. has been placed beyond the jurisdiction of the Court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), to seek forfeiture of any other property of the defendant up to the value of the above-forfeitable property or to seek return of the property to the jurisdiction of the Court so that the property may be seized and forfeited.

All pursuant to the provisions of Title 18, United States Code, Sections 981(a)(1), 982(a)(1), and Title 28, United States Code, Section 2461, and the procedures outlined in Title 21, United States Code, Section 853(p).

A TRUE BILL.

/s/ Megan M. DeLeo
FOREPERSON OF THE GRAND JURY

/s/ Paul S. Becker
Paul S. Becker
Assistant United States Attorney

Dated: 4/18/17
Kansas City, Missouri

AO 442 (Rev. 01/09) Arrest Warrant

SECRET

RECEIVED
U.S. MARSHALS SERVICE
2017 APR 19 AM 8:41
WESTERN DISTRICT OF MISSOURI

UNITED STATES DISTRICT COURT

for the

Western District of Missouri

United States of America
v.
Brian Anthony Newkirk

Defendant

Case No. 17-00122-02-CR-W-SRB

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay *(name of person to be arrested)* Brian Anthony Newkirk,
who is accused of an offense or violation based on the following document filed with the court:

☑ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☐ Complaint
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

COUNTS ONE through EIGHTEEN: 18 U.S.C. §§ 1343 & 1346
FORFEITURE: 18 U.S.C. §§ 981(a)(1), 982(a)(1) and 21 U.S.C. § 853

Date: 04/18/2017

[signature]
Issuing officer's signature

City and state: Kansas City, MO

Honorable Sarah W. Hays, Chief U.S. Magistrate Judge
Printed name and title

Return

This warrant was received on *(date)* ________, and the person was arrested on *(date)* ________
at *(city and state)* ________.

Date: ________

____
Arresting officer's signature

____
Printed name and title